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Is "Nyet" All That Washington Can Say?

There was a wide variety of replies the American government could have made to the Soviet announcement on nuclear testing. The government could have complained that Moscow had been tricky in speeding up a test series of its own and then making its announcement just on the eve of the new American tests. Washington could have explained why it considered the new tests too important to be abandoned but promised to cease testing after this new series if the Soviets kept their word.

Any number of qualifications were possible. Our government could have said that it would use the new testing period to negotiate a system of inspection to enforce a ban on testing, and to give up testing when a satisfactory agreement had been reached. We could have offered to give up big tests, but not small. We could have suggested an agreement to limit the number and volume of future tests on both sides, regulating the amount of radioactivity to be released.

No Use Keeping Clean Bombs A Secret

If Washington thinks the development of so-called clean bombs so important, it could have offered to put testing for clean bombs under international supervision, with the results to be shared by the three thermonuclear powers. After all, if the purpose is to make nuclear war more humane, as Mr. Dulles insists it is, we should want to share the development secrets; otherwise an enemy would have no choice but to use dirty bombs.

Similarly, if we consider testing essential for certain peaceful purposes, as underground for mining, we could have offered to carry these on, too, under international auspices if the Soviets did likewise. Any one of these, or any other constructive compromise suggestions, would have given Washington a reasonable reply with which to face Moscow in the forum of public opinion. This time it is the U. S. which stands before the world with nothing to say but "nyet." The rigidity is on our side.

Stevenson Made The Same Proviso

The State Department grasped at the fact that the Russian announcement left the door open to resumption of testing if other nations did not follow suit, saying this meant the offer could be "altered at will." Gromyko's proviso was no different from Adlai Stevenson's just two years ago, when the Democratic candidate suggested we do what Moscow is doing now. "Of course," Stevenson added, in that famous speech of April 21, 1956, "I would call upon other nations to follow our lead, and if they don't and persist in further tests, we will know about it and can reconsider our policy."

Perhaps Just As Museum Pieces?

Q. Mr. Secretary . . . are we to understand you to mean that when we have achieved a smaller, cleaner, tactical bomb we will then be prepared to elimirate from our atomic arsenal the megaton bombs and the kiloton bombs?

A. Well, this operation that I refer to involves a considerable making over of existing weapons into smaller or cleaner weapons. . . . You don't throw them away; the material is too valuable.

Q. But will we not retain any of the megaton bombs and kiloton bombs in the arsenal?

A. I just don't know what the program is in that respect. . . . I assume we might retain some.

—Dulles press conference, April 1.

The State Department also charged that Moscow's unilateral cessation of testing could be "evaded in secrecy." This hardly conforms to that standard of candid discussion implied by Mr. Dulles's emotional references to the checks exercised by a free press and an opposition party. A battle is being waged as we go to press between the AEC and the Pentagon on the one hand and the Humphrey disarmament subcommittee on the other over the government's efforts to keep secret recent executive session testimony on the range and efficiency of our test detection devices.

We Know All About the Soviet Tests

Marquis Childs reflected that executive session testimony when he wrote in the *Washington Post* April 2, ". . . we know every detail of the recent series of nuclear tests conducted by the Russians. We know exactly where the tests were conducted. We know the yield of radioactive fallout they sent into the atmosphere. We know the chemical make-up of the weapons tested and the exact number." The reason all this is being kept secret is not, however, "simply inertia," as Mr. Childs believes. The government could hardly reveal how much it knows of Russian tests without at the same time undermining the whole hint-and-run campaign designed to make the public believe inspection may easily be evaded. If we can learn this much without inspection posts on Soviet soil, how can it be argued that tests could be kept secret if there were international inspection stations across the USSR? Gromyko repeated the control post offer.

Mr. Dulles said at press conference that both we and the Soviet Union now have "enough large thermonuclear weapons to destroy the other and perhaps a large part of humanity. The Soviet Union is willing apparently to let it go at that."

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Senator Russell Joins the Opposition; Top Secret Strauss Letter Turns Up

Now A Real Chance to Defeat the Nuclear Arms Give-Away Bill

There is now a real fighting chance to block passage of S 3165, the Nuclear Arms Give-Away bill. The new Russian move on testing makes this measure too scandalous from a propaganda point of view. Unexpected powerful opposition has made itself felt in conservative quarters; on March 30, Senator Russell of Georgia, chairman of the Senate Armed Services Committee and a member of the Joint Congressional Committee on Atomic Energy, gave the United Press a statement opposing the bill on much the same grounds as those advanced earlier by Congressman Chet Holifield when he first opened what seemed to be a hopeless fight against the measure. Senator Russell said that "spreading nuclear weapons around the world" would make arms control more difficult and increase the danger of their use in local conflicts "which are in no way related to our international security."

Another lucky break: someone obtained and gave Senator Clinton Anderson of New Mexico excerpts from a top secret letter AEC Chairman Lewis L. Strauss had written last Dec. 12 to Deputy Secretary of Defense Quarles objecting to the bill. Production of these excerpts surprised and discomfited Strauss when he appeared to testify before the Pastore subcommittee on March 27. Strauss had just finished testifying in favor of the bill and denying that other nations, given non-nuclear components of nuclear weapons under the bill, could then proceed to fabricate the nuclear portions as charged by Holifield and Anderson.

The Same Mistake We Made Before

". . . Suppose we decide to arm France with nuclear weapons . . . or the Germans—is it always certain that these governments will be friendly to the United States? We helped arm Japan in many ways before Pearl Harbor, and we saw an awful lot of material come back to kill American boys."

—Prof. Charles Price, U. of Penna., testifying for the Friends Committee on National Legislation, against Nuclear Arms Give-Away Bill, Mar. 28.

Strauss declined to let the excerpts go into the record on the ground that they were from "a very classified letter." But the excerpts were published in the *Washington Post* March 29. In them Strauss said other nations could duplicate nuclear weapons if given the non-nuclear parts and fissionable materials, as the bill proposes. He also argued that once these nuclear "make it yourself kit" materials were given one of our NATO allies there would be pressure from others "to be treated similarly." This letter, like the testimony in the box below, contradicted State and War Department assertions to th Pastore subcommittee that the bill was not "intended" to create new nuclear powers.

At present transfer of nuclear weapons, their components or the secret of making them is forbidden. The Administration could do so only by embodying its proposals in a treaty (requiring two-thirds Senate approval) or a concurrent resolution (requiring a majority vote of both Houses of Congress). The pending legislation would enable the Administration, without consulting Congress, to give the makings and secrets of nuclear weapons to any of the 47 nations which now have mutual defense pacts with the U. S.

Where Acheson Agrees With Kennan

"It would, I believe, be wiser to leave the nuclear power in American and British hands and not hasten the dissemination of nuclear weapons. We have problems enough without advancing the time—which seems to me inevitable—when these weapons will be much more widely available than they are today. . . . It would, I believe, be a disastrous mistake to increase nuclear power in Europe as part of our present policy of increasing our military reliance on nuclear weapons. To do this would perpetuate the danger and horror of living under the sword of Damocles."

—Dean Acheson: Power and Diplomacy (1958), p. 101

Senator Anderson protested at the Pastore subcommittee hearings that under this legislation the Senate, which must confirm small town postmasters and tariff changes on bicycles and clothespins, was being asked to give the Administration a blank check to create new nuclear powers.

When the public hearings began on March 26, the outlook for opponents of the bill looked hopeless. The hearings were called so swiftly and the previous executive hearings had been held so secretly that few were aware of the issues. Congressman Holifield, a member of the Joint Committee, took the unusual step of appearing as a witness against the bill, repeating the analysis he made public in his little noticed speech at Columbus, Ohio, last March 3 which first brought the dangers in this legislation to public attention. (See the heart of this speech as printed in the March 17 issue of the *Weekly*).

Six eloquent witnesses turned up: Prof. Charles Price of the Univ. of Penna. for the Friends Committee on National Legislation; Mrs. Ralph Pomerance, for the Women's International League for Peace and Freedom; Christoph Hohenemser, Swarthmore Students for Disarmament; Brig. Gen. Hugh Hester (USA Ret.); Rabbi Isadore Hoffman of the Jewish Peace Fellowship and James L. Morrison, recently resigned member of the AEC's general counsel office. Morrison warned that certain sections of the bill would give the military greater power than ever to prevent declassification of scientific information.

When the hearings ended on March 28, Senator Pastore agreed to ask Secretary Dulles to be heard on the bill and to reopen the public hearings if enough people and organizations asked to be heard by April 15. Individuals and organizations wishing to be heard should wire Senator Pastore at once.

State Dept. Official Admits Nuclear Give-Away Would Probably Create 4th Atomic Power

Sen. PASTORE. A short while ago Mr. Stassen came before the Senate Committee on Disarmament, of which I am a member, and said that the reason why we were anxious to negotiate a disarmament agreement at London was because the possessors of nuclear weapons were anxious that no fourth nation come by this knowledge and stockpiles of nuclear weapons. Am I correct in that?

Mr. [C. Burke] ELBRICK [Asst. Sec. of State for Foreign Affairs]. I think that is correct.

Sen. PASTORE. Do these recommendations basically change that policy of the United States, in your opinion?

Mr. ELBRICK. No. Mr. Chairman, our policy is still to reach a disarmament agreement which would be mutually satisfactory to both sides as soon as we can. This is our policy. We would like to do this. But in the face of a rejection of the Western proposals on disarmament, we have no alternative, we feel, but to prepare the West, to build up the West, to the point where it can meet a threat from the East. Whether this involves necessarily the encouragement of a fourth country to enter this field, I am not sure. It probably does.

—Hearing on the Nuclear Arms Give-Away Bill, Mar. 27

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Supreme Court Splits Wide Open on 5th Amendment, Contempt and Expatriation

The Terrible Power to Declare Dissenters Men Without A Country

A bitter issue split the Supreme Court in the expatriation cases last Monday. It is whether Congress may regulate fundamental rights so long as the regulations are "reasonable." This view, held by Frankfurter and opposed by Black and Douglas, would negate the First amendment, which says Congress shall make "no law" abrogating freedom of speech, press or assembly and the Fourteenth amendment, which makes "all persons born or naturalized" in this country citizens of the United States and of the State in which they live. This fundamental grant was intended to safeguard the newly freed Negro. It is as absolute as anything in the Constitution, but Frankfurter would make it, too, subject to "reasonable" regulation, allowing Congress to denaturalize even native born Americans for certain actions or crimes, and make them "stateless"—men without a country.

A Police State Custom

Hitler made the Jews and his political opponents stateless. Statelessness is also a penalty imposed by Soviet law on oppositionists. A law passed by Congress in 1954 [we devoted the special issue of this *Weekly*, Feb. 1, 1954 to exposing its dangers] would authorize the government to deprive of nationality even native born Americans convicted of conspiring to violate the Smith Act. It was an Eisenhower administration measure, sponsored by Ferguson of Michigan and Mrs. Smith of Maine. This present court would hardly uphold it. But what of the future? Is statelessness some day to become a means of punishing political dissent in this country, too? This is why Douglas angrily said from the bench last Monday that these cases involved "perhaps the most important constitutional pronouncement of this century."

Three separate cases were decided, but only two of them reached the constitutional issue. In these Brennan, by shifting, decided the outcome. In the Trop case, he joined Black, Douglas, Warren and Whittaker to hold that Congress could not make expatriation a punishment for desertion in wartime. In the Perez case, however, Brennan joined Frankfurter, Burton, Harlan, and Clark to rule that an American citizen could be expatriated for voting in a foreign election. [In the Nishikawa case, the Court 7-2 reversed the expatriation of an American born Japanese drafted into the Japanese army during the last war but did so on the ground that the burden of disproving duress rested on the government].

The gravity of the Perez decision is that it is rested by Frankfurter on the government's foreign policy powers.

Weakening the 5th Amendment

The Stefana Brown case decided last Monday again showed how the present Court is divided between a strong liberal minority of Black, Warren and Douglas; a conservative bloc led by Frankfurter, with Brennan (and sometimes Whittaker) swinging between them. The effect of the Frankfurter 5-4 decision upholding a six months contempt sentence on Mrs. Brown is to weaken Fifth amendment safeguards in deportation and denaturalization actions, extending to these "civil" proceedings a stricter rule hitherto applied in criminal cases; a defendant who takes the witness stand voluntarily waives any right to plead the Fifth during cross-examination thereafter. A native of Poland, resident in this country since the age of two, Mrs. Brown is another of those naturalized citizens hounded for past membership in the Communist party. She lost her citizenship and now must serve 6 months in jail as well. Brennan joined the dissenters in her case.

One passage casts its shadow across the coming right to travel cases. In it he says, "Experience amply attests that, in this day of extensive international travel, rapid communication and widespread use of propaganda, the activities of the citizens of one nation when in another country can easily cause serious embarrassments to the government of their own country as well as to their fellow citizens." On this basis he upholds the government's right to declare stateless a citizen who embarrasses the government by voting in a foreign election. What of those who "embarrass" their government by speeches or writings on foreign policy?

Douglas, with Black, protested "if the power to regulate foreign affairs can be used to deprive a person of his citizenship because he voted abroad, why may it not be used to deprive him of his citizenship because his views on foreign policy are unorthodox or because he disputed the position of the Secretary of State . . . or the action of the Chief Executive in the field of foreign affairs. . . . No doubt George F. Kennan 'embarrassed' our foreign relations when he recently spoke over the British radio. Does the Constitution permit Congress to cancel his citizenship? Could an American who violated his passport restrictions and visited Red China be deprived of his citizenship? To many people any of these acts would seem much more heinous than the fairly innocent act of voting abroad."

The Real Truth About the Issue of Jury Trial in Contempt Cases

If the Supreme Court had reversed instead of upholding the convictions of Gilbert Green and Henry Winston, who went underground rather than serve their sentences under the Smith Act, Southern Senators like Eastland would have accused it of being soft on Communists again. The effect of such a decision would have been to restrict the power of Federal judges to punish for contempt without jury trial. This is what the South argued for in its fight last year against the civil rights bill. But the victory of principle would have been too unpalatable for Southern rightists if it came in the shape of a decision helping two fugitive Communist leaders.

On the other hand, liberals who were strongly opposed to the South on the civil rights bill also dislike the Smith Act and feel—as I do—that Green and Winston were victims of political persecution. They will therefore be strongly attracted to the minority dissent in which Black, Warren and Douglas argued for reversal of the extra three year sentence imposed on the two fugitives for disobeying a court order to surrender. One's position will be determined by one's sympathies. This is what Holmes meant when he said that inarticulate premises rather than general propositions really determined judicial decision.

The truth is that the jury system is only as dependable as the community from which the jury is picked. Radical defendants in the recent years of the witch hunt have usually preferred trial without a jury. Though white juries in the South do on occasion punish white men for offenses against Negroes, white juries could hardly be depended on in this atmosphere to enforce civil rights legislation by convicting segregationists who defy court orders. Thus how one feels on the issue of summary punishment for contempt vs. trial by jury will depend very much on the circumstances and the end one is seeking at that moment to achieve.

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U.S. Weakness Is Not in Propaganda But in Its Hostility to Any Arms Control

(*Continued from Page 1*)

This is a grave distortion. The Russian position is not "to let it go at that." This is what Gromyko said: "We realize that the ending of tests would not fully remove the danger of atomic war. . . . We consider it to be our principal aim to reach agreement with other powers on the unconditional banning of atomic and hydrogen weapons of all kinds, ending production thereof and completely destroying stockpiles of these weapons *with proper control.*" (Emphasis added).

Another Unpleasant Surprise In The Offing?

The Secretary of State has a right to ask what Moscow considers "proper control," to dispute its conception of that and to suggest his own. He has an obligation to world opinion to explain whether he is willing to negotiate the matter separately from testing, once a testing ban is achieved. He has no right to pass over it, and he is very foolish to do so. He may be laying himself open to unpleasant surprise.

After all, in the same pre-election speech last month in which Krushchev hinted at unilateral cessation of testing, he also said the time might be coming when the major powers "failing to achieve agreement among themselves, will be forced unilaterally to discontinue manufacture of atomic and hydrogen weapons." If Krushchev in a new announcement says the Soviet Union has stopped manufacturing nuclear weapons, Gromyko's reference to "proper control" will become of crucial importance. What will we do? Will the President inanely dismiss this, too, as a "gimmick"? Does he really think we can go on testing until next August as world clamor for cessation rises?

Not Just A Question of Propaganda

It is in my opinion nonsense to write of this whole affair as a propaganda tragedy for the United States. I have no way to read Moscow's mind but I think I can read Washington's. The American government is opposed to disarmament. It is committed to nuclear arms. It aims to make nuclear weapons "conventional." The interminable disarmament talks have been engaged in only as a smoke-screen, just as we will go to the summit only to "prove" to our Western allies that no agreement with the Russians is possible and that they must therefore accept missile bases and nuclear arms. This is the truth and this is why Washington looks bad. The fault lies in policy, not in propaganda.

Washington talks of Russian insincerity, but its real fear is that Moscow may really be sincere. Washington does not want to negotiate because it fears that arms agreement is possible. The real attitude of the Eisenhower Administration stands revealed in the pending legislation to authorize American companies to sell military reactors, fissionable materials, and non-nuclear components of nuclear weapons to other nations, and to let the Defense Department share hitherto restricted data on how to assemble these into atomic weapons. We aim to make nuclear armament universal, and that means above all to put it in the hands of the Germans.

So We Do Intend to Spread Nuclear Know-How

Q. Mr. Secretary, there is considerable doubt on the Hill about the Administration's proposal to share nuclear military information with allied governments. The chief point of opposition appears to be a fear that this will encourage the development of fourth country nuclear powers. Can you give any assurance that it is not this government's intention to do anything that would help fourth nuclear powers beginning with France?

A. The program which we have, which permits of sharing some of our nuclear knowledge with our allies, is not designed to, nor would it be used primarily [sic] to, expand the number of countries which have nuclear weapons. However, the idea that we can stop expansion by keeping our information secret is illusory. . . . It is no great trick. It takes some money, but almost anybody who has enough money and some reasonably educated scientists can make at least a crude atomic or nuclear weapon, and the crude ones are the worst. . . . I believe myself that a program which enables the United States with discrimination to share its knowledge is more apt to keep the development of nuclear weapons under control. . . .

—Dulles press conference, April 1.

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